

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

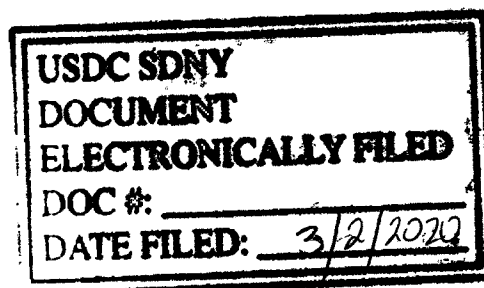
-----X
JUAN VARGAS, individually, and on behalf
of all others similarly situated,

Plaintiffs,

-against-

CHARLES W. HOWARD and
CALL-A-HEAD CORP.,

Defendants.
-----X



Civ. Action No.
15-CV-05101 (DCF)

⁹
**[PROPOSED] ORDER GRANTING CLASS REPRESENTATIVES'
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS AND
COLLECTIVE ACTION SETTLEMENT**

On February 13, 2020, Class Counsel filed Class Representatives' Unopposed Motion for Preliminary Approval of Class and Collective Action Settlement (the "Motion"), to resolve this action against Defendants Charles W. Howard and Call-A-Head Corp. (collectively referred to as "Defendants") together with Class Representatives (the "Parties"). The Court has considered the Stipulated Settlement and Release Agreement, its attached Exhibits, and the Declaration of Christopher Marlborough ("Marlborough Decl.") filed in connection with the Motion, and hereby finds and orders as follows:

I. PRELIMINARY APPROVAL

1. The Court has determined that the terms of the Settlement are within the range of reasonableness at this stage of the action, subject to further review in connection with the final approval hearing.
2. The Court approves the Angeion Group as the Settlement Administrator to

perform duties in accordance with the Agreement.

3. The Court finds that the procedures for notifying the Rule 23 Class and FLSA collective about the Settlement as described in the Agreement provide the best notice practicable under the circumstances and therefore meet the requirements of Due Process.

4. The Court approves as to form and content, the Corrective Notice (“Corrective Notice”). The Settlement Administrator is authorized to mail those documents to non-class members who previously received notice of this Action.

5. The Court approves as to form and content, the Notice of Proposed Class Action Settlement (the “Notice”). The Settlement Administrator is authorized to mail those documents, after they are updated with the appropriate dates and deadlines consistent with the Agreement, to the Class Members as provided in the Agreement.

6. The Notice satisfies Federal Rules of Civil Procedure 23(c)(2)(B) and adequately puts Class Members on notice of the Proposed Settlement. *See In re Michael Milken & Assocs. Sec. Litig.*, 150 F.R.D. 57, 60 (S.D.N.Y. 1993) (“class notice need only describe the terms of the settlement generally”) *quoted in Hernandez v Merrill Lynch & Co.*, 2012 US Dist. LEXIS 165771, at *13-14 (SDNY Nov. 15, 2012). The Notice is appropriate because it describes the terms of the Settlement, give Class members an opportunity to opt-out or object to the Settlement, informs the Class about the potential allocation of attorneys’ fees and provides specific information regarding the date, time and place of the final approval hearing. *In re Michael Milliken & Assocs. Sec. Litig.*, 150 F.R.D. at 60.

7. Any written objection to the settlement by a Class Member who has not opted out must be received by the Settlement Administrator within sixty (60) days from the mailing of the Notice and shall then be filed with the Court.

II. CLASS ACTION SETTLEMENT PROCEDURE

8. The Court hereby adopts the settlement approval process as set forth in the Agreement.

9. If the Effective Date as defined in the Agreement does not occur, the Agreement shall be deemed null and void and shall have no effect whatsoever, except as otherwise provided or reasonably contemplated therein.

10. The Parties are ordered to carry out the settlement according to the terms of the Agreement.

11. The Court will conduct a hearing pursuant to Rule 23(e)(2) of the Federal Rules of Civil procedure on July 16, 2020 at 10:00 a.m at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 17A, New York, New York (the "Fairness Hearing"), for the purpose of: (a) hearing any timely and properly filed objections; (b) making a final determination as to the fairness, adequacy, and reasonableness of the settlement terms and procedures; (c) fixing the amount of attorneys' fees and litigation costs and expenses to Class Counsel and service awards to Plaintiffs, if appropriate; and (d) entering Judgment, if appropriate. The Fairness Hearing may be continued without further notice to Class Members. Class Counsel shall file a motion for final approval of the settlement and supplemental application for attorneys' fees costs and service awards fourteen (14) days prior to the final fairness hearing.

12. All Class Members are enjoined from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the United States and/or New York Departments of Labor) regarding claims released by the Parties' Settlement Agreement unless and until such Class Members have filed valid and timely requests to be excluded from the Settlement.

13. If any Class Members exclude themselves from the Settlement and reach a separate settlement agreement with defendants, defendants shall inform the Court of any such settlements.

14. The following dates shall govern the schedule of this action.


<p>[10 days after the signing of this Order]</p> <p>Date: <u>March 12,</u> 2020</p>	<p>Defendants' Counsel will provide the Settlement Claims Administrator and Class Counsel with the Class Member mailing list in a Microsoft Excel file format ("Class List") pursuant to Sections 1.6 and 2.3(A) of the Agreement.</p>
<p>[30 days after the signing of this Order]</p> <p>Date: <u>April 1,</u> 2020</p>	<p>Settlement Administrator shall mail to all Class Members, via First Class United States Mail, the Court-approved Notice and Corrective Notice [Settlement § 2.3(B)].</p>
<p>[60 days after date of mailing of Class Notice]</p> <p>Date: <u>June 1,</u> 2020</p>	<p>Last day for Class Members to submit written objections to the Settlement. [Settlement § 2.3(C)]</p>
<p>[Bar Date -- 60 days after date of mailing of Class Notice]</p> <p>Date: <u>June 1,</u> 2020</p>	<p>Last day for Class Members to "opt out" of the Settlement. [Settlement § 2.3(C)]</p>

[20 days prior to the scheduled Fairness Hearing] Date: <u>June 26</u> , 2020	Last day for service of proposed papers in support of final settlement approval to Defendants for review and comment.
[No later than 21 days prior to Fairness Hearing Date] Date: <u>June 25</u> , 2020	Settlement Administrator shall provide: (a) a list of all Class Members, (b) a list of all Objectors, and (c) a list of all Class Members who timely submitted an Opt-out Statements.
[No later than 15 days prior to Fairness Hearing Date] Date: <u>July 1</u> , 2020	Settlement Administrator shall provide: (a) an updated list of all Authorized Claimants, (b) an updated list of all Objectors, and (c) an updated list of all Class Members who timely submitted an Opt-out Statement.
[14 days prior to the scheduled Fairness Hearing] Date: <u>July 2</u> , 2020	Last day for filing and service of papers in support of final settlement approval with the Court. Class Counsel's application for attorneys' fees, costs expenses and service awards shall also be filed by this date.
Date: <u>July 16</u> , 2020	Fairness Hearing

IT IS SO ORDERED

Dated: 3/2, 2020

New York, New York



Debra C. Freeman, U.S.M.J.

DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK